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No. 84-551

In the Supreme Court of the United States

October Term, 1984

THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA, ET AL.,
Petitioners,

vs.

FIRST PRESBYTERIAN CHURCH OF SCHENECTADY, ET AL.,
Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Did the Court of Appeals of New York violate the First and Fourteenth Amendments to the Constitution of the United States when it chose and applied the "neutral principles" approach in the resolution of a dispute between a local church and a national denomination over the ownership and control of local church property?

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STATUTES INVOLVED

Section 24 of the Religious Corporations Law of the State of New York.

STATEMENT OF THE CASE

Petitioners' Statement of the Case omits certain pertinent and crucial facts.

The controversy in the case is between the First Presbyterian Church of Schenectady (hereinafter, First

Church) and The United Presbyterian Church in the United States of America (hereinafter, UPCUSA). The New York Court of Appeals correctly stated:

> The case may properly be viewed as no more than a dispute between the general church and the local congregation. (Petitioners' App. A-10).

The dispute is over the ownership and control of the local church's real and personal property.

UPCUSA is a connectional church with a representative form of church government and a series of judicatories. The powers in the presbyterian system are vested in the people who delegate certain of the powers to each of the church courts. In a connectional or presbyterian system, the power flows from the people up through the church courts in contrast to an episcopal or strictly hierarchical system where the power flows from the top down. The parties agreed that the form of government of UPCUSA pertinent to this case is contained in the Book of Order.

First Church was formed in about 1760 which was long before the formation of UPCUSA's Presbytery of Albany (hereinafter, Presbytery). In about 1790, First Church affiliated with this Presbytery. First Church remained a constituent member of UPCUSA until January 24, 1977 when First Church severed its ties with the national denomination. For the past almost eight years First Church has remained separated from UPCUSA, and not one single member of First Church has indicated a desire to be reaffiliated with UPCUSA during this eight year period.

UPCUSA's predecessor denomination was founded in 1789, about 30 years after First Church was formed. The original 1789 Constitution of UPCUSA provided that the

local congregation owned and controlled its local church property and no constitutional change regarding such property had been made to the date of this controversy.

First Church remained a member of UPCUSA until January 24, 1977 when, at a duly called meeting of the corporation and congregation, the church severed its affiliation with UPCUSA. On such date First Church had a membership of 440. The vote to sever was 223 ayes, 3 nays and 9 abstentions. Immediately thereafter the officers sent a ballot by mail to all the absent members. 112 of such absent members responded to the mail ballot as follows: 111 favored severance and 1 cast a negative vote. Thus of the 440 member local church, 334 voted for severance and only 4 voted against it. No complaint was filed and no appeal taken by any member of the congregation to Presbytery to this action of severance.

It was not until February 1, 1977 that Presbytery appointed an Administrative Commission with authority to act as Session of First Church; but that was one week after First Church adopted its resolution of severance of January 24, 1977.

After January 24, 1977, First Church refused to obey any directions of Presbytery or its Administrative Commission on the grounds that First Church had severed its connection and was no longer subject to the jurisdiction of UPCUSA.

First Church owned certain real and personal property on January 24, 1977. The deeds by which it acquired title to its various parcels of real property all named First Church or its trustee as grantee. None of these deeds contained any forfeiture clause or reversion clause

in favor of the various grantors. None of these deeds contained any provisions which purported to vest any interest, present or future, in UPCUSA, Presbytery or any other ecclesiastical organization or denomination.

First Church was duly incorporated under the laws of the State of New York on January 14, 1803, pursuant to Chapter 79 of the laws of New York of 1801. A correction to the original certificate adding the word "First" to the corporate name was filed on January 20, 1809. No change has been made in its corporate status since that date. And neither document contains any reference to any denomination. First Church has taken no action to reincorporate under Section 24 of the New York State Religious Corporations Law.

It was stipulated by the parties that neither Presbytery nor UPCUSA have paid any funds, made any financial gifts, or loans, for the purchase or maintenance of any property now owned or heretofore owned by First Church.

On January 24, 1977 (the date First Church voted to sever its connection with UPCUSA) The Book of Order contained no provision for the forfeiture or reversion of local church property to the general church in the event a local congregation withdrew from the denomination.

On January 24, 1977 (the date First Church voted to sever its connection with UPCUSA) the UPCUSA Constitution contained no express provision imposing a trust on local church property in favor of the denomination. Such an express trust provision was put in the UPCUSA Book of Order in 1981 but that was four years after this controversy arose. In 1929 UPCUSA attempted to amend its constitution to require each local church

to include trust language in their corporate documents that read as follows:

> the charter or articles of its corporation shall declare its property is held in trust under the constitution of and for the Presbyterian Church in the United States of America:

This amendment was rejected and did not pass. Nothing relating to such a trust was changed in the UPCUSA Constitution until 1981.

On January 24, 1977 (the date First Church voted to sever its connection with UPCUSA) there was no provision in the Book of Order which gave or granted to UPCUSA any contractual or proprietary right in or to the property of First Church.

On January 24, 1977 (the date First Church voted to sever its connection with UPCUSA), there was no express provision in the Book of Order prohibiting a local church from severing its connection with the denomination.

On January 24, 1977 (the date First Church voted to sever its connection with UPCUSA) there was no provision in the Book of Order providing for a particular method or procedure for a local church to change its denominational affiliation. The Book of Order was silent on this subject. Historically, many churches have unilaterally withdrawn as First Church did and have kept their property; other churches have sought and obtained dismissal by presbytery. No specific method is provided in the Book of Order.

On January 24, 1977 (the date First Church voted to sever its connection with UPCUSA) the general rule was that a majority governs in the courts of UPCUSA.

ARGUMENT

I

The Court of Appeals of New York resolved the issues in the case at bar in every way consistent with the principles enunciated by this Court in *Jones v. Wolf*, 443 U.S. 595 (1979). Both Courts characterized the question as being whether a civil court may resolve such a dispute on the basis of "neutral principles of law" or whether they must defer to the resolution of an authoritarian tribunal of the hierarchical church. (443 U.S. at 780-781 and Petitioners' App. A-1).

In *Jones v. Wolf*, this Court answered that question and set forth the options available to States:

> . . . the First Amendment does not dictate that a State must follow a particular method of resolving church property disputes. Indeed, a State may adopt any one of various approaches for settling church property disputes as long as it involves no consideration of doctrinal matters. . .
>
> At least in general outline, we think the "neutral principles of law" approach is consistent with the foregoing constitutional principles. 443 U.S. at 784.

The New York Court chose to apply the "neutral principles" approach in the case at bar:

> We choose to recognize the neutral principles of law analysis and we apply it here. (Petitioners' App. A-10).

The Court of Appeals of New York saw the same advantage in the "neutral principles" approach as did this Court in *Jones v. Wolf*. This New York Court listed those same reasons in its opinion. (Petitioners' App. A-10,

A-11). Petitioners' entire argument is based on the premise that it was error for the New York Court to choose this "neutral principles" approach. We submit that under the above stated options outlined by this Court in *Jones v. Wolf,* the New York Court had every right to choose this option.

The factual similarities between the case at bar and those in *Jones v. Wolf* are striking. For instance in *Jones v. Wolf* the Presbytery appointed an Administrative Commission after the local church voted to sever its connection. That Commission declared that the minority faction was the true congregation and withdrew all authority from the majority. In response to such attempted action by Presbytery's Administrative Commission, the local church in *Jones v. Wolf* chose to ignore this action and did not appeal to a higher church court but brought an action in the civil courts. (443 U.S. at 781-782).

In the case at bar, there was no minority faction loyal to UPCUSA; but Presbytery's Commission sought to withdraw all authority from the local officers after First Church had severed its connection with UPCUSA. First Church chose to ignore this action, did not appeal to a higher church court, but brought an action in the civil courts. (Petitioners' App. A-3).

Having reviewed these factual similarities and having decided to adopt the "neutral principles" approach for the same reasons this Court set out in *Jones v. Wolf,* the New York Court then proceeded to follow the guidelines outlined by this Court in *Jones v. Wolf.* The New York Court examined:

(1) The deeds

(2) The Corporate Charter

(3) Applicable State Statutes

(4) The Constitution of UPCUSA (The Book of Order)

As to the deeds, the New York Court found:

> First, under familiar property law principles, plaintiff church held record title to the property free from any competing interests. The deeds by which plaintiff church acquired the several parcels of realty all named First Church or its trustees as grantees, their operative provisions contained no forfeiture or reversion clauses in favor of the various grantors of UPCUSA and the record does not indicate that any of the property was acquired by restrictive gift. None of the deeds include language of trust or restriction vesting a present or future interest in the Albany Presbytery or the UPCUSA. (Petitioners' App. A-11 & 12).

As to the Corporate Charter, the New York Court found:

> Turning to the local charter, plaintiff church apparently filed two certificates of incorporation, the first in 1803 and the second in 1809 and these certificates are silent on the question of how the property is to be owned. (Petitioners' App. A-12).

As to the applicable New York Statutes, the New York Court found that First Church chose to be governed by the State law prior to 1828 rather than the present Religious Corporations Law. The New York law gave First Church this option which it properly exercised. Hence the New York Court concluded:

> Indeed the fact that plaintiff church, acting through its trustees, chose not to bring itself within the scope of section 69, relying instead upon prior law giving it undisputed ownership, is evidence that ownership rests with plaintiffs. (Petitioners' App. A-12).

Finally, the New York Court, following the mandate of *Jones v. Wolf*, looked at the Constitution of UPCUSA as its provisions related to local church property. The New York Court found no provision which created an express trust in favor of UPCUSA in the local church's property. The New York Court went further to look into the possibility of an "implied" trust for UPCUSA. The New York Court concluded:

> Nor can there be an implied trust of the second type for to establish a trust there must be a sufficient manifestation of the intention to do so. (Petitioners' App. A-14 & A-15).

The New York Court found four conclusive reasons why no such intention was manifested, to wit:

> (1) First church acquired the property on its own without any funding assistance from the denominational church and there is no evidence that it intended to hold the property in trust. (Petitioners' App. A-15).
>
> (2) First Church took no action from which an intent to create a trust may be implied and it had no notice or knowledge that the Presbytery or UPCUSA claimed that an implied trust existed prior to this dispute. (Petitioners' App. A-15).
>
> (3) The trustees of First Church failed to pass a resolution bringing the church within the statutory trust provision of section 69 of the New York Religious Corporations Law and no other commitment in writing was undertaken to create one. (Petitioners' App. A-15).
>
> (4) Additionally, not only does the Book of Order contain no provision of trust, but in 1929 UPCUSA proposed an amendment to the church rules establishing a trust of all church properties for the denom-

> inational church and the amendment failed to receive the necessary votes of the Presbyteries for passage. The mere fact of First Church's association with the denominational body, even an association lasting 200 years, does not by itself support a finding that an implied trust was created. (Petitioners' App. A-15).

Petitioners argue that the New York Court of Appeals violated the First and Fourteenth Amendments to the U.S. Constitution by prohibiting UPCUSA from governing this particular local church in accordance with church law as set forth in the denomination's Constitution (the Book of Order). Petitioners cite three sections of the Book of Order which they contend were so violated. They cite Chapter XI, Sections 7, 8 and 15 as such violated sections. For clarification, the Book of Order denotes its sections by marginal notations; and these cited sections are denoted as 41.07, 41.08, and 41.15. The New York Court dealt with these identical sections in its opinion and referred to them by said marginal notation numbers. (Petitioners' App. A-13).

Petitioners further argue that the New York Court was factually incorrect when it stated that these sections are "located outside the property section of the Book of Order". (Petitioners' Brief p. 15). Petitioners contend that there is no "property section" as such in the Book of Order. Chapter XI (marginal number 41) of the Book of Order in which these cited sections appear is entitled "Of the Session". Chapter XXXII (marginal number 62) of the Book of Order, which is the property section, is entitled "Of Incorporation and of Trustees". In Appendix A, the Sections 41.08 and 41.15 as well as Sections 62.04 and 62.08 are quoted verbatim so that this Court may see for itself which are the sections of the Book of Order that deal with local church property.

The New York Court looked at these specific sections upon which Petitioners rely and concluded that they did not create a "beneficial interest" in UPCUSA in the local church property of First Church. After reviewing these very sections, the New York Court held:

> These provisions, relied upon by the concurring Justice at the Appellate Division as establishing an intent to create a beneficial interest in the denominational church, are located outside the property section of the Book of Order. They deal with church government and relate only indirectly to the control of property. They set forth the mechanism of church government in the event of a church dispute and any inquiry into their meaning by a court is constitutionally foreclosed because it would require the court to choose between the insurgent Session and the commission or "replacement Session." Moreover, the authority of the Session to direct control of property in such a dispute is belied by the constitution itself in view of the fact that other sections of the Book ascribe to the Session power which is purely spiritual (Part II, Chapter V, section 35.03). In view of this ambiguity, these provisions should be discounted, leaving nothing in the Book of Order to support defendants' position. (Petitioners' App. A-13 & A-14).

Also, the PCUS Constitution (Book of Church Order) which this Court considered in *Jones v. Wolf* had very similar provisions. We have set out these comparable provisions in Appendix A. Specifically, UPCUSA Sections 41.07, 41.08, and 41.15 (which are the sections relied upon by Petitioners) do have comparable sections in the PCUS Book of Church Order. It should be noted that the distinctions between these sections of the UPCUSA

and PCUS Constitutions are not great; in fact, the two denominations have now merged. Let us now look at comparable sections of the two constitutions.

UPCUSA

Sections 41.07 and 41.08 provide that the Session of a local church has authority over worship and use of local church buildings.

Section 41.15 provides that the presbytery can replace the Session which is composed of Elders in a local church.

PCUS

Section 15-7(10) gives Church Session power; "to exercise, in accordance with the directory for worship, authority over the time and place of the preaching of word and the administration of the Lord's Supper, over all other religious services, over the music in the services and *over the uses to which the church building and associated properties may be put*". (Emphasis added).

Section 16-7(2) gives Presbytery power: "To assume original jurisdiction in cases in which a Church Session cannot exercise its authority."

Section 16-7(5) gives Presbytery power: "to visit churches for the purpose of inquiring into and redressing the evils that may have arisen in them. When necessary for the welfare of the church *the presbytery may dissolve the active relationship between an Elder or Deacon and the Church*". (Emphasis added).

Section 19-2 gives Presbytery power to appoint: "A Commission is given responsibility to make decisions

> for the court in circumstances where it is impractical or inexpedient for the entire court to act. The appointment court shall state specifically the scope of the power given to a Commission.
>
> A Commission may be erected to perform either administrative or judicial functions. The administrative functions ordinarily entrusted to a Commission are: (1) to visit portions of the Church affected with disorder to inquire into and settle the difficulties therein. . ."

In its initial decision in *Jones v. Wolf,* the Georgia Supreme Court looked at the property sections of the PCUS Book of Church Order, and then looked at the sections cited above and discarded them, as it noted:

> Appellants cite other sections of the Book of Order pertaining to church courts. These deal with faith and the internal structure of the church *but do not deal with property rights.* 243 S.E. 2d 860 at 863. (Emphasis added).

This Georgia case then went to the U. S. Supreme Court and back to the Supreme Court of Georgia. Neither of these Courts considered the comparable sections as binding on the civil courts nor determinate of property rights. The reason is obvious: these sections deal with ecclesiastical powers and jurisdiction and not with property rights.

If this Court had applied the judicial principle of "deference", upon which Petitioners insist here, then the local church property in *Jones v. Wolf* would have been awarded to the denomination rather than to a majority faction of the local church. If the New York Court violated the First and Fourteenth Amendment rights of Petitioners, then similar violations occurred in rulings by this Court in *Jones v. Wolf* and in the highest courts in

California (*Presbytery of Riverside v. Community Church of Palm Springs*, 89 Cal. App. 3d 910, 152 Cal. Rptr. 854, *cert. denied*, 444 U.S. 974 (1979)) and South Dakota (*Foss v. Dykstra*, 342 N.W. 2d 220 (S.D. 1983)) in which local churches were awarded property, against UPCUSA claims, following the neutral principles approach.

Petitioners' major argument is that the civil court's decision prohibits UPCUSA from exercising control over the local church's property by the appointment of an Administrative Commission to take over the session of the local church and thereby seize control of the property. The New York Court's decision does not "prohibit" UPCUSA from doing anything it desires except to take over the property of the local church which it does not own and over which it has no further jurisdiction. Thus in the case at bar, as in *Jones v. Wolf*, the civil court did not deny the denomination any ecclesiastical right it had under its Constitution. It did enjoin the denomination from interfering with local church property in which the denomination has no right of ownership, express or implied. And it did enjoin the denomination, in both cases, from interfering with the right of free exercise of religion by a local church over which the denomination had no further jurisdiction.

II

Petitioners contend that the decision of the Court of Appeals of New York is directly contrary to this Court's decisions in *Kedroff v. Saint Nicholas Cathedral*, 344 U.S. 94 (1952), *Kreshik v. Saint Nicholas Cathedral*, 363 U.S. 190 (1960), and *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976).

We submit that *Kedroff* and *Kreshik* hold that a State cannot do, by either legislative action or judicial

fiat, for the parties what the parties have not first provided for between themselves in their contract with each other. In the case at bar, UPCUSA has not been able to produce any document, as an agreement between it and First Church, which gives UPCUSA any right, express or implied, in the local property of First Church. Neither has UPCUSA been able to produce any document which prohibits First Church from severing its ecclesiastical connection with UPCUSA or which imposes any penalty or forfeiture of property upon First Church upon such a severance. Hence to bind the local property of First Church to UPCUSA solely by virtue of State action (judicial in this instance) would clearly violate the judicial principle of both *Kedroff* and *Kreshik*. This would constitute an establishment of religion by the State for the denomination and a denial of the free exercise of religion to the members of First Church.

Serbian may also be distinguished from the case at bar for there the issue was principally an ecclesiastical issue over the right to appoint a bishop and here the issue is a civil issue over the ownership and control of local church property.

In *Serbian*, a hierarchical church, acting through its hierarchical bodies, defrocked the Bishop of a diocese and reorganized the diocese into three dioceses. The defrocked Bishop filed suit claiming that the church had acted improperly in recognizing the diocese and that his defrockment should be set aside as arbitrary because the church proceeding against him had not been conducted in accordance with the church's constitution. The Court decided that although the title to diocesan property was vested in the Bishop by virtue of his office, the real issue was a religious dispute over who would be the Bishop and not a civil dispute over the ownership of property.

Mr. Justice Brennan wrote the opinion of this Court and stated:

> Thus the case essentially involves not a church property dispute, but a religious dispute the resolution of which under our cases is for ecclesiastical and not civil tribunals. 426 U.S. at 709.

Further, it is important to note what facts were *not* present in *Serbian* and how the denomination there involved has been dealt with in the light of *Jones v. Wolf*. In a recent opinion by the Supreme Court of Minnesota in the case of *Piletich, et al. v. Deretich, et al.*, 328 N.W. 2d 696 (1982), that Court dealt with the same Serbian Eastern Orthodox denomination that was involved in the *Serbian* case that was before the United States Supreme Court. The Minnesota Supreme Court first noted that the structural relationship between the denomination and a local congregation was not an issue in *Serbian* and was not dealt with by the United States Supreme Court in that case. (328 N.W. 2d at 699). After reviewing the structure of the denomination to determine the congregation's relationship to it, the Minnesota Supreme Court held as follows:

> We find, therefore, that this general church is not "heirarchical" with respect to resolution of intra congregational disputes over local property or members qualification. 328 N.W. 2d at 699-700.

The Minnesota Supreme Court then proceeded to review the various provisions of the denomination's constitution and determined that although this was a hierarchical church in some respects it was congregational as it related to the ownership and control of local church property. (328 N.W. 2d at 702). This was similar to the conclusion reached by the trial judge in the case at Bar. (Petitioners' App. A-20).

Every Court that has considered this case has concluded that the central issue was a civil issue of property rights and therefore, a proper issue for determination by a civil court. After hearing the witnesses and the arguments and reviewing the evidence and briefs presented at the trial of this cause, Judge J. Raymond Amyot found that the "core issue" in this case was "the legal ownership of property now held in the name of the Plaintiff church". (Petitioners' App. A-20). Justice T. Paul Kane, writing for the majority in the Supreme Court Appellate Division, held that ". . . it is the beneficial use and application of that property which is at issue". (Petitioners' App. A-28). Justice Simons, writing an opinion in which all justices of the Court of Appeals concurred, stated:

> Inasmuch as "the State has a legitimate interest in resolving property disputes and a civil court is a property forum for that resolution" a determination of the issue submitted to us is appropriate (see *Presbyterian Church v. Hull Church* 393 U.S. 440). (Pettioners' App. A-7).

Thus, the Petitioners' reliance on *Serbian* for the proposition that strict deference is required in resolving disputes between a local congregation and a generally hierarchical denomination is misplaced. In fact, a review of all cases leads to the inescapable conclusion that civil courts must review the contract between the parties as it is contained in their constitution; and a failure to do so and to give effect to those documents is an absolute violation of both the free exercise and establishment clauses of the First Amendment to the United States Constitution. Under this rule the New York Court made the limited review of the UPCUSA Constitution as prescribed in *Serbian* and gave effect to such contract between the parties.

CONCLUSION

Jones v. Wolf stands for the proposition that state courts may utilize the neutral principles approach of resolving church property disputes so long as they do not violate the precept that no court may delve into ecclesiastical matters. The Court of Appeals of New York had the constitutional right to choose the neutral principles approach in resolving this dispute between UPCUSA and First Church over the ownership and control of local church property. The Court of Appeals of New York properly applied these neutral principles as set out in *Jones v. Wolf*. Therefore, the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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APPENDIX A

SELECTED SECTIONS OF THE BOOK OF ORDER OF THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA

AUTHORITY OF SESSION

41.08 8. The church session shall have authority over all of the affairs and activities of the particular church, except such matters as may, by this Form of Government, be specifically accorded to the pastor, to the congregation, or to a higher judicatory. The session may from time to time delegate administrative responsibilities in respect to the care and management of church properties and in respect to the financial affairs of the church either to the board of trustees or to the board of deacons or in part to one and in part to the other, subject always to the superior authority and direction of the session. It may add active members to any of its committees and may set up special committees of active members responsible to it.

41.15 15. Whenever, after a thorough investigation, and after full opportunity to be heard has been accorded to the session in question, the presbytery of jurisdiction shall determine that the session of a particular church is unable or unwilling to manage wisely the affairs of its church, the presbytery may appoint a commission composed of ministers and ruling elders, with the full power of a session. This commission shall take the place of the existing session, if any, which shall cease to act until such time as the presbytery shall otherwise direct.

OF INCORPORATION AND TRUSTEES

62.04 4. Each particular church shall be incorporated, cause a corporation to be formed and maintained, or in states forbidding the incorporation of religious bodies elect from its members individual trustees: to receive, hold, encumber, manage and transfer property, and to facilitate the management of its civil affairs in such manner as may be directed by the session of the particular church from time to time and according to this Constitution.

62.08 8. Whether by civil law the trustees of a particular church hold title to its property or are the officers of a corporation which holds title thereto, they shall deal with such property only as they may be authorized or directed by the session, and their authority in respect to the selling, mortgaging, and leasing of real property shall be subject also to any rights reserved to the congregation by civil law or the bylaws of the particular church and to the permission of presbytery as herein provided.

The trustees of a particular church shall exercise any other powers or authorities vested in them by civil law in conformity with the actions of the session as conveyed to them from time to time. They shall also perform such other duties relating to the property or finances of the church as may be delegated to them by the session. The trustees shall submit a financial statement of all matters committed to them and a report of their proceedings to the session for review at least once a year and at other times upon request of the session.

While trustees, like other boards and bodies of a particular church, hold authority subordinate to

that of the session, the office of trustee is one of dignity and responsibility, requiring ability and devotion. Trustees, upon their election, shall be properly recognized at a service of worship and set apart to the discharge of their responsibility by prayer.

SELECTED SECTIONS OF THE BOOK OF CHURCH ORDER OF PRESBYTERIAN CHURCH IN THE UNITED STATES (the denomination involved in *Jones v. Wolf*)

CHAPTER 6 which relates to church property.

CHAPTER 6

Incorporation and Property of a Particular Church

§ 6-1. FOR AN UNINCORPORATED CHURCH

A particular church which is not incorporated, desiring to elect trustees, may select from among its confirmed membership trustees or officers of like nature who shall have the power and authority to buy, sell, or mortgage property for the church to accept and execute deeds as such trustees, to hold and defend titles to the same, to manage any permanent special funds entrusted to them for the furtherance of the purposes of the church. In the fulfillment of their duties such trustees shall subject always to the authority, and shall act solely under the instructions, of the congregation which they serve as trustees. The powers and duties of such trustees must not infringe upon the powers or duties of the Session or of the Board of Deacons. Such trustees shall be elected in regularly constituted congregational meetings.

§ 6-2. FOR AN INCORPORATED CHURCH

If a particular church is incorporated, the provisions of its charter and bylaws must always be in accord with the Constitution of the Presbyterian Church in the United States. If the congregation is an incorporated body, all the communing members on the active roll of that church shall be members of the corporation. The officers of the corporation, whether they be given the title "Trustee" or some other title, shall be elected from among the members of the corporation in a regularly constituted congregational meeting. The powers and duties of such officers must not infringe upon the powers and duties of the Session or of the Board of Deacons. All funds collected for the support and expense of the church and for the benevolent purposes of the church shall be controlled and disbursed by the Session and the Board of Deacons as their relative authorities may from time to time be established and defined. To the officers of the corporation may be given by the charter and bylaws of the corporation any or all of the following responsibilities: The buying, selling, and mortgaging of the property for the church, the acquiring and conveying title to such property, the holding and defending title to the same, the managing of any permanent special funds entrusted to them for the furtherance of the purposes of the church, provided that such duties do not infringe upon the powers and duties of the Session or of the Board of Deacons. In buying, selling, and mortgaging real property such officers shall act solely under the authority of the corporation, granted in a duly constituted meeting of the corporation.

Section 15-6 deals with the authority of the local Church Session. § 15-6(10) specifically deals with authority over church buildings.

§ 15-6 The Church Session is charged with maintaining the spiritual government of the church. For this purpose it has power:

(10) To exercise, in accordance with the Directory for Worship, authority over the time and place of the preaching of the Word and of the administration of the Lord's Supper, over all other religious services, over the music in the services, and over the uses to which the church building and associated properties may be put.

Section 16-7 deals with powers of Presbytery.

Section 16-7(2) through 16-7(9) gives powers to dissolve Church Session and dissolve relationship between an Elder and local church as §41.15 of UPCUSA Book of Order.

§ 16-7 The Presbytery has power:

(1) To receive and decide references, appeals and complaints brought before it according to constitutional procedures.

(2) To assume original jurisdiction in cases in which a Church Session cannot exercise its authority.

(5) To visit churches for the purpose of inquiring into and redressing the evils that may have arisen in them. When necessary for the welfare of the Church the Presbytery may dissolve the active relationship between an Elder or Deacon and the church, provided there has been a hearing which affords procedural safeguards as in cases of process.

§ 19-2 provides for Presbytery to appoint an Administrative Commission to replace the Session:

> A Commission is given responsibility to make decisions for the court in circumstances where it is impractical or inexpedient for the entire court to act. The appointment court shall state specifically the scope of the power given tc a Commission.
>
> A Commission may be erected to perform either administrative or judicial functions. The administrative functions ordinarily entrusted to a Commission are: (1) to visit portions of the Church affected with disorder to inquire into and settle the difficulties therein. . .